




Federal Aviation Administration

Memorandum

Date: July 15, 2008

To: Sandra Anderson, Air-Ground Communications Solutions Development Group,
AJW-55

From: 
Rebecca MacPherson, Assistant Chief Counsel for Regulations, AGC-200

Subject: Data-Link Communications Provided for an Air Carrier and the FAA by the
Same Contractor

Question

Whether an air carrier would violate current 14 C.F.R. section 121.99(b) if the air carrier hires a contractor to provide data-link communications systems if that same contractor also transmits data to air carrier crews under contract for ATO?

Background

Air carriers operating under part 121 are currently required to maintain voice radio capabilities with Air Traffic Control (ATC) and with the air carrier's dispatch office. Title 14, section 121.99(b) of the Code of Federal Regulations provides that for Domestic Operations and Flag Operations, the communications systems used in the carrier's airplane and the air carrier's dispatch office must be independent of any system operated by the United States.

Many air carriers have hired contractors to provide the dispatch communication equipment necessary for aircraft crewmembers to communicate with the air carrier's dispatch office on a for-hire basis. These contracts may be solely for voice-link services, or they may be for a combination of voice- and data-link services. The FAA's Air Traffic Organization (ATO) is considering contracting with the private sector to provide the ATO with data-link capabilities with airborne aircraft. However, the ATO intends to continue to maintain the Government's own voice radio communications system so that air traffic controllers and pilots can communicate with each other.

If the ATO supplements its voice radio transmitter/receiver equipment with a contractor-provided data-link system, then the issue arises as to whether an air carrier that uses the same contractor for voice- and data-link capabilities would violate 14 C.F.R. section 121.99(b)'s safety

requirements because the air carrier's communications system would not be independent of the system operated by the ATO.

Opinion

Under the current FAA safety rules, an air carrier using a contractor for its voice- and data-link communications systems will not be in violation of section 121.99(b) if ATO selects the same contractor to provide data-link services for the government. This assumes that the ATO will continue to maintain Government-owned voice communications systems.

Current FAA safety rules require voice communication capabilities between the Domestic/Flag air carrier aircraft, air carrier dispatch offices, and ATC. A decision by the ATO to contract for data-link services from a third party will not suspend the ATO's own voice transmitting/receiving communications system. Therefore, although the air carrier's and ATO's data-link systems may be provided by the same contractor, an air carrier's voice communications system will still be independent of the voice communications system operated by the United States as required by the regulation.

Section 121.99(b) permits the use of a Government communications system in an emergency. If a carrier's voice- or data-link communications system became unusable and the aircraft's crew or dispatch needed to transmit critical safety information, such an emergency situation could justify allowing the carrier to use ATO's voice- or data-link communications system, whether directly owned by the Government or provided under contract.

I trust this responds to your concerns. Please let me know if you have additional questions regarding this matter.

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